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Arizona Corporation Commission

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IN THE MATTER OF QWEST
CORPORATION'S PETITION FOR
ARBITRATION AND APPROVAL OF
INTERCONNECTION AGREEMENT WITH
NORTH COUNTY COMMUNICATIONS
CORPORATION OF ARIZONA PURSUANT
TO SECTION 252(B) OF THE
COMMUNICATIONS ACT OF 1934, AS
AMENDED BY THE
TELECOMMUNICATIONS ACT OF 1996
AND APPLICABLE STATE LAWS

DOCKET NO. T-01051B-09-0383
T-03335A-09-0383

**QWEST CORPORATION'S PETITION
FOR RECONSIDERATION OF THE
JULY 25, 2011 FINAL ORDER**

Pursuant to ACC R14-3-111, Qwest Corporation ("Qwest")¹ files this petition for reconsideration of one provision in the Commission's July 25, 2011 Opinion and Order ("Order"), Decision No. 72499.

ARGUMENT

The Commission Should Reconsider its Ruling Regarding the Cap on Minutes of Use

Qwest's proposal with regard to the terms and conditions for interconnection would allow NCC to continue to interconnect via MF signaled trunks, as opposed to the newer, and more

¹ On April 1, 2011, Qwest's parent company, Qwest Communications International Inc., was acquired by CenturyLink, Inc., in a transaction previously approved by this Commission. The Qwest entity that is a party to this proceeding, and that provides interconnection and local telephone service, is now Qwest Corporation d/b/a CenturyLink QC, but will be referenced herein as "Qwest", consistent with references in other filing in this docket.

1 widely used SS7. In connection with the continued use of MF signaling, Qwest proposed a cap
2 on *total* minutes of use that would form the basis for calculating the compensable minutes of use
3 (i.e., local traffic) for purposes of reciprocal compensation. (Order ¶ 58, emphasis added). The
4 Order states that Qwest's proposed cap of an average of 400,000 minutes of use ("mou") per
5 month for all in-service DS1s was calculated based on NCC's current usage pattern and Qwest's
6 best efforts to analyze those minutes. The Order further notes that NCC did not provide
7 evidence of its actual use of its in-service circuits, and did not contest Qwest's calculations.
8 (Order ¶ 73).

9
10 Paragraph 77 of the Order largely adopts Qwest's proposal, with three modifications:
11 first, that the cap relates to "compensable minutes of use"; second, that the cap is calculated on
12 an average basis over all in-service DS1s; and, third, that language should be added to allow
13 either party to request a modification to the cap, based on verifiably accurate records. Qwest has
14 agreed to the latter two modifications, and requests reconsideration only of the change from
15 "total" minutes to "compensable" minutes.

16 The Order changes the cap on minutes of use so that the 400,000 mou cap applies to
17 "compensable minutes" rather than "total minutes". However, under Qwest's proposal, the cap
18 should apply to total minutes, not just compensable minutes. As noted in the Order, there is no
19 evidence that supports any other cap, and the 400,000 figure was not contested by NCC. Thus,
20 there is no evidentiary basis on which to change the cap from "total" minutes to "compensable"
21 minutes. Based on all of the evidence in the record, a cap of 400,000 minutes of total use is a
22 reasonable place to start, and, if the cap needs to be modified based on actual traffic, the
23 provision to renegotiate the cap would be applicable.

24
25 Thus, Qwest respectfully seeks reconsideration of the Order such that the cap on minutes
26 of use is a cap on total minutes, from which compensable minutes are then calculated. This is

1 consistent with Qwest's testimony and evidence, upon which the Order relies to reach its
2 conclusion. Attachment A to this petition contains excerpts from Qwest's testimony that
3 addressed this issue.


4 **CONCLUSION**

5 In conclusion, Qwest respectfully asks the Commission to grant reconsideration of its
6 Final Order and modify that Order so that the cap on average minutes of use per DS1 is 400,000
7 total minutes per month.

8 RESPECTFULLY SUBMITTED, this 15th day of August, 2011.

9 QWEST CORPORATION

10
11 By:



Lisa A. Anderl (admitted *pro hac vice*)
Associate General Counsel
1600 - 7th Ave., room 1506
Seattle, Washington 98191
(206) 345-1574
Lisa.anderl@centurylink.com

12
13
14
15
16 Norman G. Curtright
Associate General Counsel
20 East Thomas Road, 16th Floor
Phoenix, Arizona 85012
Telephone: (602) 630-2187
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ATTACHMENT A TO PETITION FOR RECONSIDERATION

Albersheim Direct pages 20-24

Q. WITHIN THE ISSUE OF MF SIGNALING IN THE JOINT DISPUTED ISSUES LIST, NORTH COUNTY CLAIMS THAT THE CAP ON MINUTES IS AN ARBITRARY 60% DISCOUNT FOR QWEST. IS THAT AN ACCURATE REFLECTION OF THE BASIS FOR THE CAP ON MINUTES?

A. No. The cap of 400,000 minutes is not arbitrary. It is a reasonable number, based on past usage patterns, and is designed to protect Qwest since Qwest does not have an automated way to verify North County's total minutes, because MF signaling is being used. Qwest needs some level of certainty that North County's measurement of minutes is accurate, especially given our past billing disputes. This cap reflects the total traffic that is originated by Qwest and others that is terminated at North County using North County's most recent bills to Qwest for Arizona as well as Qwest's experience with other CLECs. Qwest's cap in Washington and Oregon is 240,000. Qwest nearly doubled that cap for Arizona. Qwest would be willing to negotiate the limit if traffic terminating to North County were to increase, but this would have to be done following a manual study of North County's traffic.

Q. HOW EXACTLY IS THE CAP CALCULATED?

A. Qwest first took the total number of minutes of use, as reported by North County, terminating to North County's Arizona switches each month over the Local Interconnection Service ("LIS") trunk groups interconnecting Qwest and North County, and divided that total by the number of in-service DS1s for the respective month. (There were no originating minutes to include in the calculation based on North County's assertion that it originated no traffic over the LIS trunk groups.) Qwest did this calculation for each month during the period of January 2007 through July 2008, excluding August and September 2007 because the in-service trunk information was not available. In its calculation, Qwest used the total minute of use data provided by North County in its monthly reciprocal

compensation invoices to Qwest; however Qwest did not have an independent source to validate the minutes of use reflected on North County's invoices. Qwest's calculation resulted in an average number of minutes of use per DS1 for each month. The seventeen month average of the monthly minutes of use per DS1 was 419,551.

Q. IF QWEST'S CALCULATION OF THE AVERAGE OF THE MINUTES OF USE PER MONTH PER DS1 EXCEEDED 419,000 PER MONTH, WHY DID QWEST PROPOSE TO NORTH COUNTY A 400,000 MAXIMUM AVERAGE NUMBER OF MINUTES OF USE PER MONTH PER DS1?

A. Qwest did not believe that the 419,551 monthly average per DS1 that was calculated using North County's unvalidated billing data was reasonable. Prior to Qwest proposing the 400,000 maximum number of average minutes of use per month per DS1 during the interconnection agreement negotiations, Qwest advised North County that it believed that a monthly average of 200,000 minutes per DS1 was more appropriate. In an effort to reach an agreement with North County during the interconnection agreement negotiations, Qwest doubled the 200,000 minutes of use per month per DS1 and proposed a 400,000 maximum number of average minutes per month per DS1. Because Qwest believes that the 419,551 average usage includes non-compensable minutes, a cap of 400,000 is a reasonable number.

Q. ARE THERE ANY OTHER CLECS IN ARIZONA THAT ARE CURRENTLY EXCHANGING TRAFFIC WITH QWEST OVER LIS TRUNKS THAT HAVE AVERAGE MINUTES OF USE PER MONTH PER DS1 THAT APPROACH 400,000 MINUTES PER MONTH?

A. No. Qwest calculated the average number of minutes of use per DS1 using October 2010 data for those CLECs interconnected to Qwest using Signaling System 7 for their LIS trunks. All of these CLECs originated and terminated

traffic over the LIS trunks. The average number of total minutes of use per month per DS1 for the 23 companies was 107,965 minutes. The range of monthly minutes per DS1 for these CLECs was 25,639 – 233,619. Consequently, Qwest's proposal that there be a maximum 400,000 average minutes of use per month per DS1 is generous.

Q. IS THE 400,000 CAP APPLIED TO INDIVIDUAL DS1 CIRCUITS?

A. No. The cap applies to the average of the total minutes over all in-service DS1 circuits. Consistent with its calculations described above, Qwest would divide the total number of minutes of use terminating to North County's Arizona switches in the month, as provided by North County, by the total number of in-service DS1s for that month to obtain an average number of minutes of use per month per DS1. That average would then be compared with the 400,000 maximum number of minutes of use per DS1 per month to determine whether that maximum number had been exceeded.

Q. WHAT HAPPENS TO THE TRAFFIC THAT EXCEEDS THE 400,000 AVERAGE?

A. Nothing happens to the traffic itself. In other words the traffic will not be blocked or prevented. The cap applies to the number of minutes for which Qwest will pay compensation to North County. Any traffic in excess of the maximum in a given month will not be counted toward compensation to North County.

Q. IS THE CAP BASED ON THE PHYSICAL CAPACITY OF A DS1?

A. No. North County's assertion of a 60% discount is based on the physical capacity a DS1 and it assumes 100% utilization of that capacity. As shown by the actual usage figures discussed earlier in my testimony, the cap of 400,000 minutes is greater than any other CLEC's usage.

Q. DOES ANY OTHER CLEC HAVE A SIMILAR CAP?

A. No. Because of this, NCC claims the cap is discriminatory, but the important point is that no other CLEC exclusively uses MF signaling. Thus, there are no other CLECs similarly situated to NCC. All of the provisions in Section 7.8, such

as the cap, are the terms Qwest considers necessary to permit North County to continue using MF signaling for Qwest-originated local traffic.

Q. YOU STATED THAT THE CAP IS INTENDED TO PROTECT QWEST. WHAT IS THE CAP PROTECTING QWEST FROM?

A. It is intended to protect Qwest from arbitrage, not just from North County but from any carrier that opts into this agreement. This protection is necessary because of the limitations placed on Qwest by the use of MF signaling.

Albersheim Response testimony pages 8-9

Q. DOES QWEST HAVE A BASIS FOR WHAT MR. LESSER REFERS TO AS THE "ARBITRARY BILLING CAP"?¹

A. Yes. To the extent that Mr. Lesser's reference to a "billing cap" relates to the cap on average minutes of use per DS1 that is included in Section 7.8.1.2 of the proposed ICA, Qwest bases the proposed cap on North County's historical traffic with Qwest as well as on traffic from other CLECs in Arizona. This 400,000 cap on average minutes is intended to protect Qwest from arbitrage, especially from any companies that choose to opt-in to the proposed agreement.²

Q. HOW DOES THIS CAP PROTECT QWEST FROM ARBITRAGE? AND WHAT ARE QWEST'S CONCERNS ABOUT OPT-INS?

A. The cap operates to limit Qwest's obligation to compensate North County. This is important because if North County wishes to use MF signaling it can receive all types of traffic over the MF trunks, and Qwest has no reasonable ability to determine if all of those minutes are properly compensable to North County. Thus, the cap acts as an upper limit. It is based on reasonable traffic patterns, and Qwest would be willing to negotiate to amend that number if North County

¹ Lesser Direct at page 15.

² In several places, Mr. Lesser states that the cap is 10,000. (See Mr. Lesser's direct at pages 12, 15 and 24). Mr. Lesser is incorrect. To be clear, Qwest's proposed cap on average minutes is 400,000.

can demonstrate that it is receiving more minutes over the trunks that are truly local and compensable.

The opt-in issue is also a concern, because once the new ICA is approved, any CLEC could adopt it. Without knowing the new CLEC's usage patterns, Qwest could be vulnerable to unauditable billings from a CLEC – the cap helps protect against that issue.